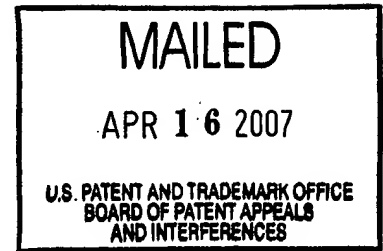


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT E. HAINES
AND JUDITH A. GARZOLINI

Application 09/981,117



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on January 27, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matter requiring attention prior to docketing is identified below:

A review of the file reveals that it is not clear from the record whether the examiner considered the Amendment filed June 7, 2006. In the Examiner's Answer mailed October 10, 2006, claim 19, which was purportedly canceled by Appellant in the amendment filed June 7, 2006, is in the statement of rejection on page 10 of the Examiner's Answer of

October 10, 2006. A written communication notifying Appellants of the response to the Amendment is required. See 37 C.F.R. § 41.33(b) which states:


(b) Amendments filed on or after the date of filing a brief pursuant to § 41.37 may be admitted:

- (1) To cancel claims, where such cancellation does not affect the scope of any other pending claim in the proceeding, or
- (2) To rewrite dependent claims into independent form.

Accordingly, it is **ORDERED** that the application is returned to the Examiner for:

- 1) consider the Amendment filed June 7, 2006, with appropriate written notification by the Examiner to appellants of such consideration;
- 2) reconsider the correctness of the Examiner's Answer in light of the Amendment filed June 7, 2006, and;
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
PATRICK J. NOLAN
Deputy Chief Appeal Administrator
(571) 272-9797

Application 09/981,117

PJN:kis

CC: HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P. O. BOX 272400
FORT COLLINS, CO 80527-2400